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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,011	04/16/2007	Hugh J. O'Donnell	60469-127 PUS1; OT-5357	1609
64779	7590	01/26/2010	EXAMINER	
CARLSON GASKEY & OLDS 400 W MAPLE STE 350 BIRMINGHAM, MI 48009			HURLEY, SHAUN R	
			ART UNIT	PAPER NUMBER
			3765	
			MAIL DATE	DELIVERY MODE
			01/26/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/582,011	Applicant(s) O'DONNELL, HUGH J.	
	Examiner Shaun R. Hurley	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/02/09</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Drawings

1. The drawings were received on 20 October 2009. These drawings are acceptable.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bruyneel et al (20030106300).

Bruyneel teaches a method of making a tension member comprising arranging a plurality of wires into at least one strand, arranging a plurality of the strands into at least one cord, determining if there is a broken wire (inherently the produced cords will be quality inspected for breaks, as supported by Applicant's specification page 4, lines 2-3), and covering with a jacket (Figures 1 and 2).

Response to Arguments

4. Applicant's arguments filed 20 October 2009 have been fully considered but they are not persuasive.

Applicant argues that Examiner is taking a preferred embodiment from Applicant's Specification and importing that into the prior art, to which Examiner strongly disagrees. The portion of Applicant's Specification which is cited states:

“This condition is detected by a detector 50, which can be a known device as used in high speed winding machinery, for example”

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Examiner is not importing a preferred embodiment; Examiner is showing that sensors are used in the art of Bruyneel et al for monitoring for breaks. Bruyneel is concerned with creating a cord identical to that of Applicant's claims, and would absolutely monitor the cord for breaks. Applicant argues nothing in Bruyneel suggests inspection of any of the cords, but this is absolutely ludicrous. There is no manufacturing system today that would create a cord for tension purposes without inspecting for breaks during production. These cords are used in elevators, and their structural integrity is essential to their production, thus inspection must be performed during production.

Applicant then argues:

“Even if there were some basis for the Examiner's ‘inherent’ argument, that still does not provide any basis for finding the claim step of manipulating a broken wire end to prevent that wire end from protruding as included in Applicant's independent claims”

Examiner's position, however, is that Applicant's claims do not require these manipulating steps to be performed. Specifically, step C says “determining if there is at least one broken wire”. Well if there is no broken wire, then there are no manipulation steps. Examiner views step C in terms of a flow chart. If there is a broken wire, then the manipulating steps are performed. If there is no broken wire, however, then no manipulating steps are performed. The reason the claims must be read in this manner is two fold. First, if there is no break, then Applicant would have no reason to manipulate the wire ends, so the manipulation must be tied in to a break in the wires. Second, if Examiner does not associate the manipulation with the wire ends being broken, and subsequently allows the application to issue, Applicant is essentially receiving patent protection for inspecting a wire being wound, which we know from page 4, lines 2-3 of his specification, is already known in the art.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schurch (4591995) shows that inspection of cords during winding is well known and understood in the art.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R. Hurley whose telephone number is (571) 272-4986.

The examiner can normally be reached on Mon - Fri, 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Shaun R Hurley
Primary Examiner
Art Unit 3765

SRH
19 January 2010

/Shaun R Hurley/
Primary Examiner, Art Unit 3765